IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.788 OF 2006

In

ARBITRATION PETITION NO.483 OF 2004

In

AWARD NO.11 OF 2004

M/s.Central India Builder : Appellant
(Orig.Respondent)

V/s.

M/s.City and Industrial Development
Corporation of Maharashtra Ltd. : Respondent
(Orig.Petitioner)

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Mr.Pradeep Sancheti i/b. M/s.Shantilal & Co., for the appellant.

Mr.G.S.Hegde i/b. M/s.Hegde & Associates for the respondent.

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : NOVEMBER 8, 2006.

P.C.

1. In the impugned order dated 6.9.2005, the learned Judge has observed thus:-

"By consent of parties therefore, I modify

> the Award made by the learned Arbitrator and direct that the Respondents shall not be entitled to recover any amount as awarded by the Award on account of escalation in prices".

2. The counsel for the appellant submits that the modification of the award is not by consent and that the appellant shall make an appropriate application to the learned single Judge for correction of the order. In this view of the matter, he prays for withdrawal of the appeal with liberty to the appellant to file the appeal afresh, in the light of the order that may be passed by the learned single Judge on the application as afore-referred.

3. Appeal is allowed to be withdrawn with liberty as prayed.

R.M. LODHA, J.

S.A. BOBDE, J.